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10 *Attorneys for Plaintiffs*

11 **IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA**

13 SELINA KEENE, MELODY FOUNTILA, MARK) Case No.: 4:22-cv-01587-JSW
14 MCCLURE,)
14 Plaintiffs,)
15 v.)
16 CITY AND COUNTY OF SAN FRANCISCO;)
17 LONDON BREED, Mayor of San Francisco in her)
18 official capacity; CAROL ISEN Human Resources)
19 Director, City and County of San Francisco, in her)
19 official capacity; DOES 1-100,)
20 Defendants.)
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23)
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EX PARTE APPLICATION AND DECLARATION OF RUSSELL DAVIS

1. I am the attorney for Plaintiffs in this matter. I have personal knowledge of the facts in this Declaration, and if called to testify about them, I would and could do so competently.

2. On May 23, 2022, Plaintiffs filed a motion for preliminary injunction. That motion was calendared for a hearing on July 8, 2022.

3. On or about July 22, 2022, I called the Clerk of the Court regarding the above motion. The clerk stated that the Court “had not forgotten about you.”

4. On August 29, 2022, I sent a letter to the Court regarding the new CDC guidelines. I had hoped that the new guidelines would assist the Court in entering a ruling on Plaintiffs' motion for preliminary injunction.

5. My clients are extremely prejudiced by the lack of a ruling in this matter. Plaintiffs had not intended to retire for more than five (5) years. As a result of their constructive firing, their retirement benefits are far lower than anticipated. Their mortgage payments and simple items like buying food, and paying for gas and electric and water have now become far more of a burden. As a result, Plaintiffs have contemplated having to sell their homes.

6. It is apparent that Plaintiffs' motion for preliminary injunction has "fallen through the cracks." By the attached motion (Exhibit 1) Plaintiffs respectfully seek to have judgment entered on their motion. This will aid in moving the case forward.

7. On September 12, 2022, at 6:25 p.m., I notified opposing counsels, Kate Kimberlin, Esq. and Jim Emory, Esq. of this ex parte application and will serve them with this application and moving papers via Pacer on September 13, 2022.

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1 I declare under penalty of perjury of the laws of the State of California that the above is
2 true and correct. Executed this 13th day of September 2022.
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5 /s/ Russell Davis
6 Russell Davis, Esq.
7 PACIFIC JUSTICE INSTITUTE
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Attorney for Plaintiffs

EXHIBIT 1

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SELINA KEENE, MELODY FOUNTILA, MARK) Case No.: 4:22-cv-01587-JSW
MCCLURE.)

Plaintiffs,

V.

CITY AND COUNTY OF SAN FRANCISCO; LONDON BREED, Mayor of San Francisco in her official capacity; CAROL ISEN Human Resources Director, City and County of San Francisco, in her official capacity; DOES 1-100,

Defendants.

)
)**NOTICE OF MOTION AND MOTION**
)**TO ENTER AN ORDER ON**
)**PLAINTIFFS' MOTION FOR**
)**PRELIMINARY INJUNCTION**

) Date: September 30, 2022
) Time: 9:00 AM
) Judge: Hon. Jeffrey S. White
) Courtroom: 5

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NOTICE OF MOTION

2 TO ALL DEFENDANTS AND THEIR ATTORNEYS OF RECORD: PLEASE TAKE
3 NOTICE that on September 30, 2022, at 9:00 a.m. in Courtroom 5, Plaintiffs will move the Court
4 to enter a ruling on their Motion for Preliminary Injunction, first filed on May 23, 2022, with a
5 hearing date of July 8, 2022. The ground for this Motion is the extreme prejudice Plaintiffs are
6 suffering from the lack of said ruling.

STATEMENT OF FACTS

8 On May 23, 2022, Plaintiffs filed a motion for preliminary injunction. Plaintiffs' motion
9 was calendared for a hearing on July 8, 2022. As of September 13, 2022, a ruling on that motion
10 has not been entered. By this Motion, Plaintiffs respectfully request the Court to enter a ruling on
11 their motion for preliminary injunction.

STATEMENT OF THE LAW

13 || Pursuant to the Code of Conduct for United States Judges:

14 Canon 3: A Judge Should Perform the Duties of the Office Fairly, Impartially and
15 Diligently

15 The duties of judicial office take precedence over all other activities. The judge
16 should perform those duties with respect for others, and should not engage in
17 behavior that is harassing, abusive, prejudiced, or biased. The judge should adhere
to the following standards:

18 (A) Adjudicative Responsibilities.

18 (1) A judge should be faithful to, and maintain professional competence in, the
19 law and should not be swayed by partisan interests, public clamor, or fear of
criticism.

20 (2) A judge should hear and decide matters assigned, unless disqualified, and should maintain order and decorum in all judicial proceedings.

22 Pursuant to Canon 3(A)(2), Plaintiffs move the Court to decide their motion for preliminary
23 injunction.

24 || Respectfully submitted this 13th day of September 2022.

/s/ Russell Davis

Russell Davis, Esq.

Russell Davis, Esq.
PACIFIC JUSTICE INSTITUTE

Attorney for Plaintiffs